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FM AMEMBASSY JAKARTA
TO RUEHC/SECSTATE WASHDC PRIORITY 8524
INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS PRIORITY
RUEHBY/AMEMBASSY CANBERRA PRIORITY 9815
RUEHWL/AMEMBASSY WELLINGTON PRIORITY 0982
RHHMUNA/USCINCPAC HONOLULU HI PRIORITY
RUCNFB/FBI WASHDC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY
RUEKJCS/SECDEF WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 JAKARTA 010037

SIPDIS

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DEPT FOR EAP/MTS AND S/CT
DOJ FOR CTS THORNTON, AAG SCHWARTZ, OPDAT ALEXANDRE
FBI FOR ETTIU/SSA ROTH

E.O. 12958: DECL: 08/03/2016

TAGS: [PTE](#) [KISL](#) [KVPR](#) [PGOV](#) [ASEC](#) [AS](#) [ID](#)

SUBJECT: AGO THREATENS TO EXECUTE BALI BOMBERS IN AUGUST

REF: A. JAKARTA 07343 EXECUTION LOCATION FOR BALI BOMBERS

[1](#)B. JAKARTA 06393 EXECUTION ORDERS SIGNED

[1](#)C. 04 JAKARTA 07567 IMPACT OF CONSTITUTIONAL COURT
RULING

Classified By: Political Officer Adam West for reasons 1.4(b) and (d).

Summary

[1](#)1. (C) The Attorney General's Office (AGO) has announced August 22 as the date on which the three men sentenced to death for the 2002 Bali bombings - Amrozi bin Nurhasyim, Imam Samudra and Ali Gufron alias Muklas - will be executed in Nusa Kembangan prison. However, the announcement seems intended more to pressure the lawyers for the three condemned men than to actually execute them. While Muslim Defense Team (TPM) lawyers have prepared Judicial Review requests to be submitted to the Supreme Court on behalf of the three, they have delayed submitting them in hopes of avoiding having to return to Bali for new evidentiary hearings. End Summary

Execution Date Announced

[1](#)2. (C) The Attorney General's Office (AGO) recently announced that August 22 has been selected as the date on which the three men sentenced to death for the 2002 Bali bombings - Amrozi bin Nurhasyim, Imam Samudra and Ali Gufron alias Muklas - will be executed in Nusa Kembangan prison (refs A and B). The announcement was unusual in that it mentions a specific date well in advance, in apparent violation of the normal policy of not releasing the timing of executions until just a few days before. According to Embassy contacts, the AGO is not actually intending to carry out the executions; rather, they are attempting to pressure the Muslim Defense Team attorneys (TPM) to submit the long-awaited requests for Judicial Review for the three bombers to the Supreme Court. Although the TPM continues to delay submitting the requests, the announcement of the execution date last week has motivated them to take action to delay the executions.

Legal Maneuvering

[1](#)3. (C) The TPM has stated repeatedly their intention to request Judicial Review for the three, but the requests have yet to be submitted. Our embassy-contracted court monitor (protect: our court monitor's relationship with the embassy

is not publicly acknowledged) said that the TPM's draft Judicial Review centers on the Constitutional Court's 2004 decision annulling the retroactive use of the 2003 Anti-Terrorism Law that was used to convict the three bombers (ref B and C). The TPM will argue that the Constitutional Court decision constitutes "new evidence" relevant to the convictions. If the Supreme Court agrees, the convictions could theoretically be overturned. Although Chief Justice Bagir Manan stated in 2004 that he is not interested in overturning the decisions in these cases (ref C), how the Supreme Court would rule in such a case today is far from certain.

¶4. (SBU) If the request for Judicial Review is submitted, the court of jurisdiction, in this case Denpasar, Bali, would hear the new evidence as well as the prosecutors' response. The Bali court would then forward a report to the Supreme Court for a decision. However, the TPM would prefer to avoid going back to Bali, where memories of the October 2005 attacks are still fresh and sympathy for their clients non-existent. As a result the TPM has delayed submission of the Judicial Review and instead submitted a motion for a change of venue. The announcement of the execution date last week was apparently aimed at forcing the TPM's hand. However, rather than submit the Judicial Review request at this time, they are preparing to file suit against the AGO to delay the executions pending resolution of the change of venue motion. Once they obtain a new venue, so their strategy goes, they could proceed with the request for Judicial Review.

Future Uncertain

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¶5. (C) The TPM strategy is problematic at best. The motion for change of venue has to be approved by the Bali High Court, the Supreme Court and the Ministry of Law in order to become binding. Deputy Bali High Prosecutor Salman Maryadi told us that the Bali High Court will not approve the request, although it is not clear when the decision will be made. The law requires the AGO to make a formal notification of execution three days prior to the actual event, so if there is no resolution by August 19, the AGO will have to either proceed with the executions or find some face-saving way out. In the end, it seems likely that the three Bali bombers will be around for a while longer.
PASCOE